

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS LIABILITY
LITIGATION

This Document Relates to:
All Cases

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) MDL No. 1:13-md-2419-RWZ
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**CHAPTER 11 TRUSTEE’S MOTION FOR LEAVE TO FILE REPLY TO
OPPOSITIONS OF LIBERTY INDUSTRIES, INC., TENNESSEE CLINIC
DEFENDANTS, SAINT THOMAS ENTITIES AND ASCENSION PARTIES TO
CHAPTER 11 TRUSTEE’S MOTION FOR ENTRY OF AN ORDER LIMITING
DISCOVERY AND STAYING THESE PROCEEDINGS WITH RESPECT
TO NECC INSIDERS AND RELATED SETTLING PARTIES**

Paul D. Moore, the chapter 11 trustee (the “Trustee”) of New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center (“NECC”), respectfully moves, in accordance with Rule 7.1(b)(3) of the Local Rules of this Court, for leave to file a consolidated reply to the objections of Liberty Industries, Inc., the Tennessee Clinic Defendants,¹ the Saint Thomas Entities² and the Ascension Parties³ (collectively, the “Opponents”) to the Chapter 11 Trustee’s Motion for Entry of an Order Limiting Discovery and Staying These Proceedings With Respect to NECC Insiders and Related Settling Parties [Doc. No. 1342] (the “MDL Stay Motion”).

¹ The “Tennessee Clinic Defendants” are Saint Thomas Outpatient Neurosurgical Center, LLC; Howell Allen Clinic, a Professional Corporation; John W. Culclasure, MD; Debra V. Schamberg, RN; Specialty Surgery Center, Crossville, PLLC; Kenneth R. Lister, MD; Kenneth Lister, MD, PC; and Donald E. Jones, MD.

² The “Saint Thomas Entities” are Saint Thomas West Hospital, formerly known as St. Thomas Hospital, Saint Thomas Network and Saint Thomas Health.

³ The “Ascension Parties” are Ascension Health and Ascension Health Alliance.

On August 14, 2014, the Trustee filed the MDL Stay Motion, through which the Trustee seeks to stay the MDL proceedings against, and limit the scope of discovery with respect to, the counterparties to certain settlement agreements entered into by the Trustee and approved in NECC's chapter 11 case by the United States Bankruptcy Court for the District of Massachusetts. Each of the Opponents subsequently filed an objection [Doc. Nos. 1349, 1351, 1356] (collectively, the "Objections") opposing, in whole or in part, the relief sought in the MDL Stay Motion. The arguments raised in the Objections, which largely overlap with one another, misrepresent the effect of the relief sought by the Trustee in various respects. Accordingly, the Trustee respectfully requests leave of this Court to submit a consolidated reply to the Oppositions, which is attached hereto as Exhibit A, to address the issues raised by the Opponents.

CONCLUSION

For the foregoing reasons, the Trustee respectfully requests that this Court grant the Trustee leave to file his consolidated reply to the Oppositions, in the form attached hereto as Exhibit A.

Dated: September 11, 2014

Respectfully submitted,

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 Compounding Center*

Certificate of Service

I, Michael R. Gottfried, hereby certify that on September 11, 2014, I caused a copy of the foregoing document, which was filed using this Court's ECF system, to be served electronically upon those parties registered to receive ECF service and by first class mail upon:

Darrel Cummings, DC# 088532
South Bay Correctional Facility
P.O. Box 7171
South Bay, FL 33493

/s/ Michael R. Gottfried
Michael R. Gottfried